

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
CRIMINAL MINUTES

FILED
DISTRICT COURT OF GUAM

APR 17 2006

MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-05-00044

DATE: APRIL 17, 2006

HON. ROGER T. BENITEZ, Designated Judge, Presiding

Court Reporter: Wanda M. Miles

Hearing Electronically Recorded: 1:13.27 - 2:01:15

Law Clerk: NONE PRESENT

Courtroom Deputy: Virginia T. Kilgore

CSO: N. Edrosa / B. Benavente

***** APPEARANCES *****

DEFT: FRANKIE BLAS CASTRO

(X) PRESENT () CUSTODY (X) BOND () P.R.

ATTY : ALEX MODABER

(X) PRESENT () RETAINED (X) FPD () CJA APPOINTED

U.S. ATTORNEY: KARON JOHNSON

AGENT:

U.S. PROBATION: STEVE GUILLIOT

U.S. MARSHAL: G. PEREZ

***** PROCEEDINGS: SENTENCING *****

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS

Base offense level: 32

Total offense level: 30

Criminal History Category: I

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT

Argued and objected to the two level enhancement. Court agreed. Request for no imposition of a fine and to allow defendant to self-surrender in 60 days.

(X) DEFENDANT ADDRESSES THE COURT AND APOLOGIZES

(X) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

Submitted on her memorandum. Opposed the 60 day self-surrender and requested a 3 week self-surrender date.

() LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS: Government's motions for downward departure Granted.

(X) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF 27 MONTHS ON COUNT I AND 114 MONTHS ON COUNT III. BOTH SENTENCES SHALL BE SERVED CONCURRENTLY. DEFENDANT SHALL PARTICIPATE IN THE 500 HOUR DRUG TREATMENT PROGRAM.

() COURT RECOMMENDATION TO THE BUREAU OF PRISONS AT _____.

(X) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF THREE YEARS ON COUNT I AND FIVE YEARS ON COUNT III. BOTH TERMS ARE TO BE SERVED CONCURRENTLY.

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME.
2. DEFENDANT SHALL NOT UNLAWFULLY POSSESS A CONTROLLED SUBSTANCE AND SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE. HE SHALL SUBMIT TO UP TO EIGHT DRUG TESTS A MONTH FOR USE OF A CONTROLLED SUBSTANCE.
3. DEFENDANT SHALL SUBMIT TO THE COLLECTION OF A DNA SAMPLE AT THE DIRECTION OF THE U.S. PROBATION OFFICE.
4. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FORTH UNDER 18 U.S.C. 3583.
5. DEFENDANT SHALL NOT POSSESS A FIREARM OR OTHER DANGEROUS WEAPON.
6. DEFENDANT SHALL REFRAIN FROM THE USE OF ANY AND ALL ALCOHOLIC BEVERAGES.
7. DEFENDANT SHALL PARTICIPATE IN A PROGRAM APPROVED BY THE U.S. PROBATION OFFICE FOR SUBSTANCE ABUSE, WHICH PROGRAM MAY INCLUDE TESTING TO DETERMINE WHETHER THE DEFENDANT HAS REVERTED TO THE USE OF DRUGS OR ALCOHOL. THE DEFENDANT SHALL ALSO MAKE CO-PAYMENT FOR THE PROGRAM AT A RATE TO BE DETERMINED BY THE U.S. PROBATION OFFICE.
8. DEFENDANT SHALL NOT ASSOCIATE WITH ANY KNOWN DRUG USER OR SELLERS.
9. DEFENDANT SHALL SUBMIT HIMSELF, HIS VEHICLE, HIS PLACE OF ABODE OR ANY VESSEL HE OWNS AN INTEREST IN, TO SEARCH AND SEIZURE BY THE U.S. PROBATION OFFICE.

IT IS FURTHER ORDERED THAT THE DEFENDANT PAY TO THE UNITED STATES A SPECIAL ASSESSMENT FEE OF \$200.00 TO BE PAID IMMEDIATELY AFTER SENTENCING.

PURSUANT TO SECTION 5E1.2(f) OF THE GUIDELINE RANGE, ALL FINES ARE WAIVED SINCE IT HAS BEEN DETERMINED THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY.

DEFENDANT SHALL SELF-SURRENDER TO THE U.S. MARSHAL SERVICE ON MAY 18, 2006 AT 12 NOON. ALL PREVIOUS RELEASE CONDITIONS TO REMAIN IN FULL FORCE AND EFFECT.

COURT STATES THE JUSTIFICATION OF SENTENCE IMPOSED. DEFENDANT ADVISED OF HIS APPEAL RIGHTS.